

Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at http://about.jstor.org/participate-jstor/individuals/early-journal-content.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

HARVARD

LAW REVIEW

Vol. XXXIII

1919-1920

CAMBRIDGE, MASS.

THE HARVARD LAW REVIEW ASSOCIATION

1920

Copyright, 1919, 1920,
By The Harvard Law Review Association

TABLE OF CONTENTS

ARTICLES

	PAGE
A CONTEMPORARY STATE TRIAL — THE UNITED STATES versus JACOB ABRAMS	
et al. Zechariah Chafee, Jr	747
AMENDING THE CONSTITUTION OF THE UNITED STATES. William L. Frierson	659
DELIVERY OF A LIFE-INSURANCE POLICY, THE. Edwin W. Patterson	198
Dependent Relative Revocation. Joseph Warren	337
Federal Power to Own and Operate Railroads in Peace Time. J. A.	
Fowler	775
HISTORY OF THE TREATMENT OF Choses IN ACTION BY THE COMMON LAW, THE.	
W. S. Holdsworth	997
IMPLIED-IN-FACT CONTRACTS AND MUTUAL ASSENT. George P. Costigan, Jr	376
INTERNATIONAL FLYING CONVENTION AND THE FREEDOM OF THE AIR, THE.	٠.
Blewett Lee	23
LANGDELL AND THE LAW SCHOOL. Charles W. Eliot	518
LEGAL PREPARATION TESTED BY SUCCESS IN PRACTICE. Lauriz Vold	168
LIABILITY FOR SUBSTANTIAL PHYSICAL DAMAGE TO LAND BY BLASTING — THE	
Rule of the Future. Jeremiah Smith 542	, 667
LIMITATIONS UPON THE AMENDING POWER, THE. William L. Marbury	223
NATIONAL WAR LABOR BOARD, THE. Richard B. Gregg	39
Progress of the Law, 1918-1919, The	0,
BILLS AND NOTES. Zechariah Chafee, Jr	255
CIVIL PROCEDURE. Austin W. Scott	
CONFLICT OF LAWS, THE. Joseph H. Beale	ī
EQUITY. Roscoe Pound	. 020
MUNICIPAL CORPORATIONS. Joseph H. Beale	1058
TRUSTS. Austin W. Scott	688
WILLS AND ADMINISTRATION. Joseph Warren	556
PROXIMATE CONSEQUENCES OF AN ACT, THE. Joseph H. Beale	633
RAILWAY VALUATION AND THE COURTS. Gerard C. Henderson 902,	
REBIRTH OF THE HARVARD LAW SCHOOL, THE. Franklin G. Fessenden	493
RIGHTS OF IDEAS — AND OF CORPORATIONS, THE. T. Baty	358
SIXTEENTH AMENDMENT, THE. Harry Hubbard	794
SPECIFIC PERFORMANCE IN CONNECTION WITH RECEIVERSHIP. Ralph E. Clark	64
STATE SOCIALISM AND THE SCHOOL LAND GRANTS. Andrew A. Bruce	401
TAXABILITY OF STOCK DIVIDENDS AS INCOME. Edward H. Warren	885
THREE SUGGESTIONS CONCERNING FUTURE INTERESTS. Ernst Freund	526
WATERS: AMERICAN LAW AND FRENCH AUTHORITY. Samuel C. Weil	133

INDEX-DIGEST

References in heavy-faced type are to the Notes and Book Reviews; in plain type to Recent Cases; and in italicized type to Articles.

Α ABATEMENT. Pendency of another claim in which present claim might be set up as counterclaim. agent as agent. ADMINISTRATIVE LAW. British war administration. 631 Government organization in war time pective sale by principal. and after. 631 The national war labor board. 39-63 ADMIRALTY. See also Insurance (Marine Insurance); International Law; Salvage. Jurisdiction: Equitable jurisdiction: accounting incidentally involved. Jurisdiction affected by action pending in foreign country for same cause. Tort on high seas: state court com-

pelled to adopt admiralty rules as to damages. 300, 309 Salvage. 453

Practice: Adoption of admiralty rules in action in common-law court. **300,** 309

Prize seized by mistake in neutral waters.

Torts: Admiralty rules of damages adopted by common-law court in action for tort on high seas.

300, 309 Limitation of liability: negligence of tug not imputed to tow. 469

ADOPTION.

See Parent and Child.

AGENCY.

Creation of agency: Agency 628 estoppel. Impossibility of having an agency by necessity. 627

Nature and incidents of relation: Duty of loyalty: secret agreement to pool commissions void.

976 Hired automobile and respondeat 714, 725 superior.

Agent's liability to third persons: Liability on contracts made for undisclosed principal. **591**, 604 Promissory notes: note signed by

265-266 Principal's rights against agent: Agent's interference with pros-

Recovery for agent's negligence denied where equivalent to an indemnity for principal's own 106

Principal's liability to third parties on contract: Liability of corporation for contract made by promoter prior to formation. 110

Principal's liability to third persons in tort: Corporation held liable for punitive damages for the tort of an agent. Who is liable for negligence of

driver of hired automobile.

714, 725 Principal's liability for crimes of agent: Criminal liability: sale of intoxicating liquor.

Ratification of unauthorized contracts: Contract made by promoter for corporation to be formed. Fallacy of doctrine.

Statute of Frauds: Employment of agent to secure mortgagee of land held within statute.

Undisclosed principal's rights and liabilities with respect to third persons: Basis of liability. 628

AIRPLANES.

The international flying convention and the freedom of the air. 23-38

ALIENS.

Denial of right of aliens to maintain billiard rooms.

Alien enemies: Judgment recovered by non-resident alien enemy before war ordered paid to alien property custodian. 871 Suits by enemy aliens. 87I

Naturalization of aliens: Status in | ASSOCIATIONS. England of a person naturalized in Australia. **962,** 976

ANIMALS.

Damages to persons and chattels by animals: Damage to automobile by collision with horse straying on highway.

APPEAL AND ERROR.

or abolished.

Appellant's right of dismissal denied where prejudicial to appellee. 858 Effect of appeal on running of statute of limitations on right of action based on prior suit. 985 Finality of decision for purposes of 1076 Judgment notwithstanding the verdict. 246-248 Should right to appeal be curtailed

ARBITRATION AND AWARD.

The national war labor board. 39-63

See Voluntary Associations.

ATTORNEYS.

Relation between attorney and client: Advice to deserter as assistance under a statute. 859 Effect of death of one partner of law

Estoppel of an attorney to act against a former client. 848, 859 Liability of attorney for failure to bring suit within period of limitations.

AUTOMOBILES.

Hired motor vehicles: who is liable for negligence of driver. 714, 725 Liability of owner for destruction of building where kept by fire without intent or negligence. 118

License fees: Constitutionality of tax graduated according to carrying capacity. 737

В

326

BAIL.

Liability to answer charges not named in bail board. 977

BANKRUPTCY.

See also Fraudulent Conveyances.

Federal legislation: A history of 880 the Bankruptcy Law. of 1898 Bankruptcy Act and amendments.

§ 4 a. 300 § 17 a (2). 470 § 67 f. 471 § 70 a (5). 310 70 e. 471

Administration: Specific performance by or against a receiver in bankruptcy. 79-81

Bankrupt, who may be: Street railway company. 300

Discharge: Burden of proof in attacking discharge. 470

Effect of discharge: on liability for fraud arising from sale, the price having been proved as a claim. 470

Failure to obtain discharge in prior proceeding as ground for refusal of discharge in subsequent vol-

untary proceedings. 978
Fraud: voluntary proceedings instituted immediately prior to an expected inheritance. 725

Liens, dissolution of: Landlord's right of entry for condition broken 709, 725 l against trustee.

Preferences: Present and past consideration, transfer for. Procedure and practice: Burden of

proof in attacking discharge. Property passing to trustee: Lease-

hold interests: landlord's right of entry for breach of condition for non-payment of rent. 709, 725

Proceeds derived from a retroactive increase of wages.

Right of action for tort causing both personal and property damages. 86o

Right to recover securities pledged for a usurious loan.

Voluntary proceedings instituted immediately prior to an expected inheritance. 725

BANKS AND BANKING.

See also Bills and Notes (Checks); Foreign Exchange.

Deposits: Creation of relation of bank and depositor a matter of contract.

Drawing check without sufficient funds a crime. 279 Refusal by bank to honor check of

one whose deposit it never consented to receive.

What act completes payment of a check received through the mail or clearing-house. 278-270

note containing statement of

References in heavy-faced type are to Notes and Book Reviews; in plain type to Recent Cases; and in italicized type to ARTICLES.

```
National banks:
                        Acquisition of
       property in satisfaction of debt.
                                718, 726
    Interest taken in advance held not
      usury under National Banking
       Act.
    Power to acquire and operate a street railway. 718, 726
    Rights and liabilities upon ultra
      vires contracts.
BASTARDS.
  Presumption of legitimacy of a child
                               306, 315
      born in wedlock.
BILLS AND NOTES.
  See also Conflict of Laws.
    For assignment of see under Choses
      in Action.
  In general: Progress of the law,
      1018-1010.
                                255-280
  Negotiable Instruments Law:
                                260-261
    2. 3. 9. 20. 25. 55. 56. 57. 62. 63. 64. 119.
                                     258
                                266-267
        9.
                                     265
                                272-273
                                271-274
                                     264
       56.
                                273-274
                                     264
                                     274
                                     270
       63.
                                     262
                                     262
                                     107
    § 120.
                                     277
      121.
                                275-277
                                     268
    § 124.
§ 125.
                                     268
    § 186.
                                     107
  Formal requisites: Certainty
                                      in
      amount: payable
                                 foreign
                            in
      money.
                                258-259
    Certainty in time: note payable
       "one day after date to be paid
      at my death.
    Consideration: what is considera-
    Fictitious payee: Is agent's knowl-
      edge that payee is fictitious im-
      puted to drawers so as to make it
      payable to bearer under the Nego-
      tiable Instruments Law. 266-267
    Incomplete instrument.
    Negotiability: certificate of deposit.
                                257-258
           chattel note reciting that
         title remains in payee until
         payment.
                                     258

    is foreign paper money nego-

         tiable.
```

transaction. 258 Parties: liability of agent signing as such. 265-266 **Checks:** Alteration: who stands loss where depositor was negligent. Check as payment under Statute of Frauds. 870 Drawing check without sufficient funds a crime. 270 Delay in presentment as excusing drawer. 107, 278 Indorsement of check not an assignment of the original debt. Statute of Limitations: when it begins to run in favor of drawer. 107, 278 What act complete payment of check received through mail or the clearing house. 278-270 **Defenses:** Alterations: in general. 267-269 - liability of accommodation indorser where note is later altered by maker before delivery to payee. liability of depositor to bank where alteration was caused by depositor's negligence. 260 - right of person making innocent alteration. 268 - what are material. 267-268 Equitable defenses: lack of consideration. 265 Failure of consideration. 272 Forgery: conversion by forged indorsee. 269-270 - liability of drawee bank to true owner after payment to forged indorsee. 260-270 Fraud: is there a general duty of care on every one signing a negotiable instrument. - may drawee set up equity of outsider. May defendant set up equity of a third party. Real defenses under the Negotiable Instruments Law. 264-265 Surety: agreement to extend time reserving rights against sureties. --- are the defenses to a surety specified in the Negotiable Instruments Law exclusive. 277 Usury and gaming under the Negotiable Instruments Law. 264-265

Usury: taking interest in advance

662

not usury.

259

Waiver of defense.

Doctrine of Price v. Neal: Payment by drawee of genuine bill secured by forged bill of lading. Under the Negotiable Instruments Law. 270

Indorsement: Accommodated in-262 dorser. Does dunning indorsee have right to 263-264

sue thereon. Indorsement of check not an assignment of the original debt. Indorsement "without recourse" as

a warranty of genuineness.

262-263 Right of third party who gave value for note to recover from maker where payable to one who neither indorsed nor paid value. 263-264

Anomalous indorser. Admission of parol evidence under the Negotiable Instruments Law.

Rights upon payment of the instrument. 275-276

Overdue paper: Default in payment of interest as dishonor.

Set-off against payee as a defense for maker at suit of indorsee after maturity.

Payment and discharge: Payment by indorser: is instrument extinguished. 275-276

Presentment and notice of dishonor: Notice to an accommodated indorser. 262

Presentment of check after 10 years' delay excusing drawer.

Purchasers for value without notice: Antecedent debt as value.

272-273 Burden of proof. 274 Foreign money: is bona fide purchaser from thief protected. 250 Illegality in the original instrument.

264-265 Notice: bad faith. 273-274 - knowledge of executory contract between maker and payee

as notice of possible breach and

Payee as purchaser for value where blanks have been filled in without his knowledge.

failure of consideration.

Stolen bonds: acquisition of title from thief. 263

Statutes: Negotiable Instruments Law: should courts take judicial notice of its passage by other states. 255-256

Negotiable Instruments Law annotated: a review. 486

BILLS OF LADING.

Right of carrier to refuse delivery without production of lost bill of lading.

BILLS OF PEACE.

Numerous suits in justices' court between same parties enjoined. 476

BLASTING.

For liability for damage caused by blasting, see under Explosives.

BONDS.

Provision in bonds that holders shall share in security of any future mortgage on existing property: have holders an equitable lien on property at issue. **456,** 476

BROKERS.

Secret agreement to pool commissions void as against public policy. 976

BULK SALES ACTS.

Application and interpretation of bulk sales statutes. **717,** 731

BURDEN OF PROOF.

· Proof of main issue: Quantum of proof necessary to overcome pre-sumption of legitimacy of child **306**, 315 born in wedlock.

Proof of secondary issues: Self-defense in homicide case.

Res ipsa loquitur: Application to cases of injury from blasting.

553-55**5**

CARRIERS.

See also Interstate Commerce; Railroads (Regulation of Rates).

Control and regulation: Power of public utilities commission to increase rates because of advance in operating expenses due to rise 107 in prices.

Right of public service company to alter rates fixed by contract.

97, 116 Federal regulation: Good faith in receiving a rebate as a defense to shipper under the Elkins Act. 606

State regulation: Validity of an in-

crease in rate allowed without a valuation of carrier's property.

Duty to transport and deliver: Appropriation by carrier of coal shipped to its own contract with shipper.

Refusal to deliver without production of lost bill of lading. 606

Control and regulation: Right of public service company to alter rates fixed by contract. 97, 116

Federal regulation: Good faith in receiving a rebate as a defense to shipper under the Elkins Act. 606

State regulation: Validity of an increase in rates allowed without a valuation of carrier's property.

Limitation of liability: Effect of special contract requiring claims to be made within limited time.

CERTIORARI.

Citizen's right to test validity of liquor license issued during national prohibition by certiorari. 478

CHAMPERTY AND MAINTE-NANCE.

Effect of dread of maintenance upon development of law as to choses in action.

CHATTEL MORTGAGES. After-acquired property.

Subsequent mortgagee of future crops preferred over prior vendee.

Recording and registry: Conditional sales: do they come within chattel mortgage acts.

CHARITIES AND TRUSTS FOR CHARITABLE USES.

In general: Personality and nationality of a charitable trust.

What constitutes charities: Bequest for benefit of deserving girls of specified religious creed upon marriage.

Bequest for masses. 472, 693-694
Bequest to Pope to carry on sacred

Bequest to Pope to carry on sacred office overthrown.

694

Bequests to society to promote

atheism. 694
Trust for benevolent purposes. 694
Creation and enforcement of
charitable trusts: Indefinite-

charitable trusts: Indefiniteness of cestuis: effect on validity.

Rights of beneficiaries under charitable trusts at international law.

361-365

Trust to aid the church. 695
Rights and liabilities of charitable organizations: Rights at

international law. 360-365 **Cy-près doctrine:** Application to

meet changing conditions of society. 598, 607
When should cy près application be allowed. 598, 607

Whether better satisfaction of artistic sense justifies a change.

CHOSES IN ACTION. 598, 607

History of the treatment of choses in action of the common law.

Growth of the different varieties of choses in action. 999-1015

The legal incidents of choses in action. 1015-1030

What may be assigned: Claims due estate: may administrator assign them.

Manner and effect of assignment: Indorsement of check not an assignment of the original debt.

Rights and liabilities of assignee:

Enforcement in his own name by assignee from administrator of claim due an estate.

Right to priority over assignor in case of assignment of one of several notes secured by one mortgage.

256-257

CIVIL LAW.

Civil Code interpreted according to common-law principles in Canal Zone.

Waters: Influence of French law upon American law of. 133-167

COMMON LAW.

Encroachment of common law upon Civil Code in Canal Zone. 1-2

CONFLICT OF LAWS.

See also Taxation.

International private law of Japan.

The progress of the law, 1918-1919.

Extent of governmental power:

Death in one state caused by blow in another.

843, 863

Jurisdiction to tax. 5-8 The nature, origin and extent of law.

I-3

What law is administered by the consular courts in treaty ports.

Jurisdiction of courts: Personal jurisdiction: Nonresident individuals or foreign corporations doing business within the state.

Personal jurisdiction over absent individual who has carried on business within state. II-I2
Services, privilege of porresident

Service: privilege of nonresident coming into state on public duty. 721, 734

 validity of service on agent of nonresident individual doing business within state.

Validity of action against foreign executor.

Jurisdiction of courts: quasi in rem: Action against foreign executor to reach property within jurisdiction.

Jurisdiction for divorce: Jurisdiction to compel divorced husband to support children. 729
Jurisdiction to grant judicial sepa-

ration. 12-13

Concurrent jurisdiction: Concurrent jurisdiction of state and United States to punish sedition.

Rule of federal courts as to burden of proof applied in action in state court under federal Employer's Liability Act. 861

State court bound by construction of federal statute by federal court in action thereon. 861

Recognition of foreign judgments: Argentine judgment enjoining payment of bill of exchange obtained by fraud no defence to action in New York.

Effect at situs of foreign decree awarding alimony out of lands.

423-425 Effect of subsequent adjudication of sanity in foreign court upon capacity to sue in court where previously adjudged insane. 612

Enforcement of foreign decrees as distinguished from foreign judgments.

423-425

Enforcement of foreign judgments.

Enforcement of foreign tax judgment. 840, 870 Validity of judgment on nonresident individual doing business within state based on service upon agent. 238-240

Where jurisdiction was conferred by appearance after judgment.

960, 984
Letters rogatory: Service of process
upon resident at request of a foreign court refused. 978

Assignment of choses in action:
Right to priority of assignee of one of several notes secured by one mortgage: is it determined by law of situs of land.

256-257

Capacity: Note made by married woman invalid where made held valid by law of state where payable.

Execution of power: What law determines valid exercise of a power to appoint by will. 16-17

Making and validity of contracts:
Contract providing that all disputes
thereon should be adjudged according to French law and in a
designated French court. 21

Contract to submit to arbitration.

Effect and performance of contracts: Contract to submit disputes thereon to a certain court as ousting other courts from jurisdiction.

21-22

Foreign corporation: Has a corporation any claim to rights outside state of creation. 368-370

Law governing eleemosynary corporation or trust. 360-365
Maintaining agent to solicit freight not doing business within a state.

Status of corporation composed of enemy belligerents in neutral country.

374

Marriage: Marriage by mail.

Nullification: jurisdiction.

13

Obligations ex delicto: creation and enforcement: Recovery under Workmen's Compensation Act for injuries suffered outside of state.

Remedies: rights of action: Husband liable by law of domicile for necessaries furnished wife in another jurisdiction. 14-15
Suit against divorced father for sup-

Suit against divorced father for support of children. 728
Suit under Workmen's Company

Suit under Workmen's Compensation Act limited to court of that jurisdiction. 22

Rights in property: Chattel mortgage on automobile in one state subjected to mechanic's lien in another. 15–16 15-16 Conditional sale. Effect at situs of foreign decree ordering conveyance of land. 424-425 Rights to priority in distribution of proceeds of mortgaged property among assignees of notes secured by one mortgage. 256-257 Trusts and eleemosynary corpora-*362-365* Trust created by deed inter vivos: what law governs. What law determines right of widow to widow's allowance. 21 Situs of choses in action: Jurisdiction to tax promissory notes 7-8 belonging to a ward.

Situs of certificate of deposit for purposes of administration. 20-21 **Testamentary succession:** Effect of

equitable conversion upon law governing legacy. 18-19

Election between provisions of will and general law of inheritance, which law governs: domicile or situs.

17-18

CONSIDERATION.

See also Fraudulent Conveyances; Trusts.

In equity, see under Specific Performance.

Adequacy of consideration: In equity. 834-837

Specialty contracts: Negotiable instruments: whether consideration essential. 265

What constitutes the consideration: Antecedent debt as consideration for a negotiable instrument. 265 Antecedent debt: purchaser for value. 272-273

Meritorious consideration as ground for imposing trust.

CONSTITUTIONAL LAW.

See also Aliens; Carriers; Conflict of Laws; Initiative and Referendum; Interstate Commerce; States; Taxation.

Nature and development of constitutional government: State's right to a sovereign existence.

Theory of delegated and reserved powers as applied to state governments.

Making and changing constitutions: Adoption and effect of Sixteenth Amendment. 796-798 Amendments and ordinary legislalation. 229-235 Amending the constitution of the United States: A reply to Mr.

United States: A reply to Mr. Marbury. 659-666
Amending the constitution entirely

an action by states and not by the federal government. 659-666 Eighteenth Amendment a valid exercise of amending power. 664-666

Limitations upon the amending power. 223-235
Matters appropriate for an amend-

ment. 225-229 Power of amendment unlimited.

799-804
State referendum and federal amendments.
287, 312
Validity of amendments not subject

Validity of amendments not subject to judicial review. 661-666

Construction, operation, and enforcement of constitutions:

For Sixteenth Amendment, see also Taxation (Income Taxes).

Constitutionality of the League of Nations.

Federal power to own railroads in peace time. 775-793
"Legislature"—its meaning in the federal constitution. 287, 312

Persons: does it include corporations and ideas. 358-375

Sixteenth Amendment: does it enable Congress to tax incomes from state bonds and salaries paid by state.

794-812

Separation of powers: judicial control over legislatures as to constitutional question. 127

Power to determine whether state has a republican form of government purely for Congress. 404-405

Resolution by American Federation of Labor against court declaring statutes unconstitutional. 127

The treaty-making power under the federal constitution. 130

Validity of ratification of federal amendment: is it a judicial or a political question. 287, 312

Powers of the executive: Relation of the executive power to legislative. 332

Powers of the judiciary: Basis of right to declare a statute unconstitutional. 127

Control of executive officers by mandamus. 462, 478
Denial of right of judiciary to pass on validity of amendments to the constitution. 659-666

Determination of existence of state of war. 585, 608 Power of federal Supreme Court to

compel state to perform duties as trustee. 416-419

Power to review political matters.

Power to review political matters. 585

Powers of the legislature — commerce: federal power to own and operate railroads in peace time.

Is federal control exclusive. 292, 312 State control over Interstate Bridges. 292, 312

Powers of legislature: taxation: Federal tax on state instrumentality. 225-229

Powers of the legislature: war power: prohibition and the war power. 585

Powers of legislature: implied powers: Federal Migratory Birds Act. 281, 312

Power to bind future generations on ordinary legislative matters by use of the amending power.

Power to own railroads as incidental to power to establish post offices and post roads.

775
Power to propose amendments un-

Powers of legislature: delegation of powers. See also *Initiative*

and Referendum.

Treaty-making power: Constitutionality of treaty as to migratory birds. 281, 312

Implied powers under treaty-making power as essential to sover-eignty.

287

Is treaty-making power subject to constitutional limitations.

Power to make treaties regulating ownership of land in states. 285 Reservations to treaties: their effect and the procedure in regard thereto. 874

The treaty-making power under the federal constitution. 130

Ex post facto and retroactive laws: Statute taking away right of action arising in another state passed after trial and pending appeal held to bar recovery. 727

Enforcement of judgments: Validity of judgment against non-resident individual based on service upon agent. 238-240

Impairment of the obligation of contracts: Right of public service commission to alter rates fixed by contract.

98

Local self-government: local selfgovernment being destroyed by amendments to constitution.

Trial by jury: Constitutionality of court rendering judgment notwithstanding the verdict. 246-248

Remittitur by appellate court.

Due process of law: Compensation for property taken for defense of the realm. 713

Enforcement of rates fixed by franchise as a deprivation of property without due process of law.

99, 116
Liability without fault: Employers'
Liability Acts. 86, 116

Present socialist movement in western states.

401-409

Right of state to levy an income tax. 8
Rules for assessment of state taxes

on property employed in interstate commerce. 6-7

State regulation of prices under the Fourteenth Amendment. 838, 86r State statute making refusal to

work a misdemeanor. 108 State taxes for state industrial schemes. 405-400

Statute taking away right of action after trial but before judgment.

Taxability of stock dividends as income. 885-901
Taxation to provide bonus for dis-

charged soldiers and sailors.

Taxes: diverting local assessment for particular purpose to general funds.

Tax on automobiles graduated ac-

cording to carrying capacity. 737 Validity of state tax on net income of foreign corporation engaged in interstate commerce. 736

Personal rights: civil, political and religious: A history of suffrage in the United States. 131

Constitutionality of state, statute making refusal to work a misdemeanor.

Denial to aliens of right to maintain billiard rooms. 108 Eligibility of women for public office. 295, 314
Freedom of speech under the Espionage Act of 1918. The Abrams **442,** 474 Freedom of speech — The Abrams case, a defense of the minority opinion. 747-774 Power of state to legislate in federal matters. Right to vote: denial of right to 132 negroes. Rights of ideas — and corporations. 358-375 Unlawful searches and seizures: order to produce papers, existence of which was discovered by unlawful search. 86a Privileges, immunities and class legislation: Denial to aliens of right to maintain billiard rooms. 108 Distinction between criminal penalties imposed on women and those 449, 473 imposed on men. Individualization in criminal punishment. Regulation of trades: state engag-

ing in private business. 403-405 Right of nonresident individual to do business within state without consent to service on agent. 238-240

Workmen's Compensation Acts:
Recovery for facial disfigurement.
473

Eighteenth Amendment: See also under Intoxicating Liquors.

Concurrent power of Congress and the several states to enforce the Eighteenth Amendment. 968

Who can set up unconstitutionality: Refusal of witness to testify on ground that statute is unconstitutional.

CONSTRUCTIVE TRUSTS.

See also under Trusts (Resulting Trusts); Statute of Frauds.

Nature and limitations of doctrine: A means of enforcing specific performance conveniently.

420-423 Constructive trust purely an equitable remedial institution.

Breach of fiduciary relation: Acquisition of property by agent employed to investigate same.

Renewal of lease by agent for himself. 698

Misconduct by non-fiduciary: Acquisition of land by agent for that purpose only. 698-600

Acquisition of property on foreclosure on oral agreement to recovery when reimbursed. 600

Intended devisee's rights against one obtaining devise by fraud or threats.

422-423

Rights arising from mistake of fact: Money loaned in ignorance of previous institution of bankruptcy proceedings against borrower recovered from trustee in bankruptcy.

862

Liability of innocent parties: Wife not liable for funds fraudulently obtained by husband and spent by her for necessaries in good faith.

Effect of Statute of Frauds: Absolute transfer on oral trust.

Bequest on trust as "I have advised." 606

Oral agreement to advance money and buy land for another, conveyance to be made when reimbursed.

698-699

Oral contracts to leave property by will. 933-935

CONTRACTS.

See also Damages; Illegal Contracts; Insurance; Offer and Acceptance; Sunday Laws.

Contracts implied in fact. See also Quasi-contracts.

Alternative remedy to recovery on express contract for wilful default. 395-396

Express contract impossible to perform: enforcement of implied contract. 393-394

contract. 393-394 Express contract unenforceable because of ambiguity. 390-391

Express contract unenforceable because of Statute of Frauds: contractual damages recovered.

392-393 Implied-in-fact contracts and mutual assent. 376-400

Implied-in-fact contracts distinguished from quasi-contracts.

376-400 Implied warranties really a contract implied in fact rather than a quasi-contractual obligation.

383-385

371-375

–alien enemy shareholders:

References in heavy-faced type are to Notes and Book Reviews; in plain type to Recent Cases; and in italicized type to ARTICLES.

Snapping up an erroneously low offer with knowledge: does it create an implied-in-fact contract. Where parties proceed under mistaken belief in existence of express *385–390* Work performed by one member of <u> 3</u>82–383 household for another. Contruction of contracts: Contract to perform to satisfaction of other party. Duration of a contract in the absence of a specified time limit. 608 **Defenses:** impossibility: Contract made by promisor with knowledge of the impossibility of perform-Impossibility of public service company operating under rates fixed by franchise as a defense Unilateral contracts: "Unilateral contract" a contradiction of 627 words. Particular classes of contracts: Option contracts: specific performance of. 950-95**I** CONTRIBUTORY NEGLIGENCE. Imputed negligence: Negligence of husband driving automobile not imputed to wife. Persons under disability: Negligence of child employee under age prohibited by statute. Statutory action: Negligence of an employee of a prohibited class no 109 defense. CONVERSION. See Equitable Conversion. CORPORATIONS. Nature of corporation: Comparison to partnership and trust. 368-369 Corporation as a legal entity. Ideas — and Corporations. 358-375 Incorporation merely a privilege locally, which should give no rights abroad. *36 g* Personality of corporations. 358-375 - eleemosynary corporations and trusts. 350-365 - public corporation. 365-368 trading corporations. 368-369 Voluntary association distinguished from corporations. 298 Distinction between corporation and its members: Disregarding corporate fiction: should fiction be regarded in foreign country.

368-3691

how treat their interest. 371-375 — prize in war owned by corporation with enemy stockholders. Citizenship and domicile of corporation: Impossibility of corporation having either nationality or domicile. Status of alien enemy shareholder. Status of corporation composed of income. value of stock. ject to tax. secret profits.

enemy belligerent shareholders in a neutral country. Charters: grant, construction and amendment: Power of majority to amend by-laws so as to expel competing shareholders. Acquisition of membership: Right to have new certificates issued to purchaser at judicial sale of stock held by nonresident. and dividends: Capital, stock, attachment: of stock of domestic corporation held by nonresident. -refusal of corporation to issue new certificates of stock. Taxability of stock dividends as 885-90I Effect of stock dividend on market 885-887 Nature of stock dividend. 890-89I Stock dividend distinguished from cash dividend with right to subscribe to new stock. 891-894 Stock dividends as between life tenant and remainderman. 892-894 Capital increment as income sub-Capitalized earnings of corporation as an increment in shareholder's wealth and taxable to him upon payment of stock dividend. 897-899 Directors and other officers: Liability of president to corporation for Promoters: Contracts made for corporation to be formed. Stockholders: rights incident to membership: Right of stockholder who received stock from participant in wrong to compel corporation to assert claims. 979 Stockholders: liability to corporation on subscriptions to stock: Whether date of payment necessary to make resolution for subscription call valid.

Stockholders: power of majority: Expulsion of competing shareholders by amending by-laws. 979

Torts and crimes: Liability of a corporation for punitive damages for the tort of an agent.

Ultra vires: what acts are: Acquisition and operation of street railway by national bank.

718, 725
Ultra vires contracts: rights and liabilities of parties: Ultra vires acts of national banks. 718

Dissolution: Should war cause dissolution of corporation composed partly of alien enemy shareholders.

371-375
Specific performance of contracts

Specific performance of contracts by or against receiver or liquidator to dissolve corporation. 81-82

COUNTERCLAIM.

See Set-off and Counterclaim.

COUNTIES.

County administration in Delaware.

COURTS.

Growth of small-claims courts. 625
Judgment notwithstanding the verdict by appellate court. 246-248
Justice for the poor denied under present judicial machinery.

253-254, **621**Lawless enforcement of law. **956**Modern tendency toward allowing courts to regulate procedure.

236-238
Necessity of reorganization of judiciary. 238
Need of reorganization to meet changing conditions. 624

New trial granted for purpose of disciplining judge where result was correct.

New trial ordered by appellate court on one issue only. 249-250

Power to render declaratory judgments in England. 253

Railway valuation and the courts.

Remittitur by appellate court in case of excessive damages. 248-249

Robinson, J., of North Dakota and rule and discretion in the administration of justice. 972

Weaknesses of elective courts. 327

CRIMINAL LAW.

Attempt: Espionage Act of 1917 and 1918. 442

Defenses: Self-defense: burden of proof. 609

Former jeopardy: Identity of of-

Jurisdiction: Concurrent jurisdiction of state and United States to punish sedition. 110
Death in one state resulting from

blow in another. **843**, 863 **Punishments and penalties:** Individualization in punishing crime.

Right of women to same criminal

penalties as men. 449, 473
Reforms: Modern tendency toward individualization in punishment.

Specific intent: Espionage Act of 1918: the Abrams case. 442, 474 Intent to kill not coincident with

killing. 611
Statutory offenses: Issuing check without sufficient funds to meet

Espionage Act of 1918. 442, 474
Espionage Act — The Abrams case
— a dissent. 747-774

Requirement of mens rea for a crime based on possession.

Trial: Instruction of jury concerning a degree of homicide less than that shown by the evidence held reversible error.

D

DAMAGES.

See also Eminent Domain; Rescission. In admiralty, see Admiralty.

In equity: Award of separate damages to each of several plaintiffs in addition to an injunction.

Nature and elements: Measure of damages a test of whether courts

are enforcing a quasi-contract or a contract implied in fact. 376-400 Measure of damages: contracts:

Measure of damages: contracts:

Breach of warranty.

475
Consequential damages caused by

Consequential damages caused by breach of seller's warranty. 610 Duty of promisee to accept offer of defaulting promisor in mitigation of damages. 854, 863

Measure of damages: tort: Con-| DIVORCE. version of stock. 474 Consequential damages: Warranty:

prospective profits. 475 Excessive damages: Remittitur by appellate court. 248-249

Exemplary damages: Liability of a corporation for punitive damages for the tort of an agent.

Mitigation of damages: Duty of innocent party to accept offer of defaulting party in mitigation of **854**, 863 damages. Duty to break contract with third

person in order to mitigate damages.

DESCENT AND DISTRIBUTION.

Forfeiture of estate: constitutionality of statute denying dower to slayer of husband.

Heir allowed to share in lapsed residue where expressly disinherited in 618

Grounds: Cruelty: abuse by motherin-law. **Defenses:** Adultery of petitioner. 720 **Alimony:** Failure of plaintiff to pay alimony held no ground for dismissing his complaint.

Custody and support of children: What law creates and enforces obligation of a divorced father to support children.

DOMICILE.

Emancipated minor: right to acquire a new domicile. Treaty ports: domicile of persons re-

siding therein. What is necessary to change domicile

as between city and country residences.

DOWER.

Dower denied to slayer of husband. 475

E

618

EJECTMENT.

By one tenant in common against lessee of other co-tenants.

ELECTIONS.

Ineligibility of candidate receiving highest vote. 1060-1061

EMINENT DOMAIN.

When is property taken: Grading street as affecting abutting land. **451**, 476

Compensation: Prerogative of the English Crown and compensation 713, 735 as a matter of right. Property taken for the defense of the realm. **713,** 735 Set-off of general benefits conferred on remaining land. Tenant for life without impeachment for waste not entitled to

proceeds of ornamental trees

taken by government. EQUITABLE CONVERSION.

Progress of the law, 1918-1919.

822-834 Conversion by condemnation proceed-Effect at situs of foreign decree ordering conveyance of land. 423-425

Effect of conditions precedent to vendor-purchaser relation. 824-826 Effect of mortgage by purchaser in default. 830-8311

Effect upon determination of what law governs legacy. 18-10 Foreclosure by vendor. 833-834 Insurance. 828-830 Risk of loss. 826-827 True meaning of conversion. 831-833 Vendor's interest held not tangible property within transfer tax law. 822-823

EQUITABLE LIENS.

See Liens.

EQUITABLE SERVITUDES.

Progress of the law, 1918-1919.

813-822 Covenants not to compete. 821-822 Declared intention the true ground for imposing equitable servitude.

814–815 Effect of change of conditions. 819-821 Effect of resubdivision of land.

817-810 Nature of restrictive agreements as to

use of property enforceable in equity. 813-814 Restrictions on use of a house. 810 Sale of lots with reference to a build-

ing scheme or plan. 815-816 Statute of Frauds: Representation of future conduct as basis of

estoppel. Application of Statute of Frauds to equitable servitudes on land. 817

EQUITY.

See also Bills of Peace; Conflict of Laws; Constructive Trusts; Equitable Conversion; Equitable Servitudes; Injunctions; Reformation of Instruments; Specific Performance.

Jurisdiction: Adequacy of legal remedy in quasi-contract as ground for refusal of equity to give relief.

864

Award of separate damages to each of several plaintiffs in addition to an injunction.

Bill by intended devisee against one obtaining devise by fraud or threats.

22-423
Enforcement of decree in foreign state.

423-425

Equitable jurisdiction over torts.

Equitable relief against waste. 124 Injunction against suit in foreign jurisdiction after statute of limitations had run in own state.

92, 114

Multiplicity of actions as a ground for equitable relief. 476
Nature of equitable jurisdiction and equitable rights. 420-428
The nature of an equitable interest.

Plaintiff's default or laches. 950-954
Power of equity to award damages
where no equitable relief is given.

Protection of rights of personality.

Recovery of specific chattels deposited with defendant as security.

Rescission for unilateral mistake.

Right of a minor child to maintenance by father. 729
Restraining legal proceedings in other jurisdictions. 425-428

To prevent forfeiture. 950-953

Priority of equities: Effect of provision in bonds that holders shall share in security of any future mortgage of existing property.

Procedure: Cross bill adding new parties.

Enforcement of foreign equity decree as distinguished from foreign judgment.

10 April 10 Apr

ESTOPPEL.

Estoppel in pais: Representation of

future conduct as basis of estoppel. 112

EVICTION.

See Landlord and Tenant.

EVIDENCE.

See also Burden of Proof; Bastards; Presumption.

Cases on the law of evidence: a review. 745

General principles and rules of exclusion: Evidence of trailing of accused by bloodhounds admitted. 864

Admissions: Conductor's report of accidents.

Declarations concerning intention, feelings, or bodily condition: Subsequent declaration by husband explaining separation in action by wife for alienation of affections.

Declarations in course of duty:

Card from a physician's card-index system rejected.

982

Res gestae: Declarations of mental state subsequently made not part of the res gestae.

Statements in public documents:
Census report admitted to show age
of accused.

865

Judgments: Grant of administration as evidence of common-law marriage. 850, 865

Judgment as evidence in later proceedings. 850, 865

Proof of foreign law: Presumption that the statutory lex loci is same as the statutory law of the forum.

EXECUTORS AND ADMINISTRA-TORS.

See also Survival of Actions.

Appointment and tenure of office: Rights of administrator outside the jurisdiction of appointment.

20**-**2I

Administration: Executor's accounts.

Presentment of contingent claims against estate. 538-541

Proceedings by or against: Suit on contingent claim on bond against executor after time allowed by statute.

571

Validity of personal service upon executor in a foreign state. 18-19

Rights, powers and duties: Assignment to residuary legatee of right

to enforce estate's claim to contribution.

EXPLOSIVES.

Liability for substantial physical damage to land by blasting - the rule of the future.

542-555, 667-687 Blasting: fallacy of distinction between cases where injury is done to plaintiff's land by tangible sub-

stances cast upon it and by vibration or concussion. 542-5481

- should defendant be liable absolutely or only for negligence. 549-555 -negligence the only true basis of liability. 667-687 -rule of absolute liability based on procedure of trespass. 667-669 — basis of liability as shown by cases. 669-683 Doctrine of attractive nuisance as

related to explosives.

F

778-78**0**

FAMOUS CASES.

442, 474, United States v. Abrams. 747-774

FEDERAL CONTROL.

See Telegraph and Telephone Companies.

Federal power to own railroads in peace time. 775-793 State taxation on federal property.

FEDERAL COURTS.

See also Removal of Causes.

Relations of Attorney-General to federal courts. 326

Jurisdiction and powers in general: Collection of decisions in suits between states.

Judgment notwithstanding the ver-246-248 dict. Jurisdiction to compel state to perform its duties as trustee. 416-419 Power to allow plaintiff who fails

to state cause of action in equity to amend so as to state cause of action at law. 242-243 Suits between states: a precedent and argument for an inter-

national tribunal. 489 Suits between states limited to

489 justiciable questions. Jurisdiction based on amount in

Reasonableness controversy: and good faith of claim. Action dismissed because reason-

claim could not exceed statutory limit.

Jurisdiction based on diversity of citizenship: Separable controversies: fraudulent joinder as ground for removal from state **970**, 985 to federal courts.

Jurisdiction based on nature of subject matter: Review of decisions of state courts involving federal questions under Judicial Code, § 237 amended. 102, 114

Powers of federal judges: Attempt to curb power of federal judge to comment on testimony. 245-246

Authority of state law: Refusal by Supreme Court to follow decision of state court as to what is usury under state statute.

Relations of state and federal courts: Review of decisions of state courts involving federal questions under Judicial Code, § 237, as amended 1914–1916.

102, 114 Supreme Court an integral part of judicial system of states. 480

FISH.

Right of public to fish in non-navigable stream.

FORCIBLE ENTRY AND DE-TAINER.

Civil liability of landlord for forcible eviction of tenant. 733

FOREIGN CORPORATIONS.

See also Conflict of Laws. What constitutes doing business within

Maintaining a commercial agent to solicit freight not doing business within a state.

Validity of service on agent for foreign cause of action after withdrawal of corporation from state.

FOREIGN EXCHANGE.

Sale of "cable transfer" held to create a trust for the buyer.

279-280**, 689-**690

FRANCHISES.

Protection of public service enterprises from competition. 576, 614

FRAUDULENT CONVEYANCES.

Bulk sales acts: What constitutes merchandise under a bulk sales statute. **717.** 731

Rights of creditors: Subsequent creditors when no fraud as to 47 I Subsequent creditors: subsequent

judgment on tort claim giving right to attack conveyance. 8651 Transfers for value: Consideration in consequences between husband and wife. **303,** 316

Wife's agreement to live separately and give up her right of support **303,** 316 as value.

Who may attack: Tort claimants as creditors within the statute.

GARNISHMENT.

Effect of garnishment: Garnishee's right to set off claims against the principal debtor acquired after service of writ.

Property subject to garnishment: Debts accruing after service of

GIFTS.

Gifts inter vivos: Gratuitous parol forgiveness of chose in action. 601 Parol gifts of land acted upon.

949-950 Gifts causa mortis: Transfer of savings bank deposit to joint account of transferor and transferee.

GRAND JURY.

Effect of exemption from grand jury duty of members of panel by court on its own motion.

H

HIGHWAYS.

Liability for animals straying on highways, see Animals.

Regulation and use.

Right to prohibit heavy trucks. 1065 Right and remedies of abutters: Compensation for damage caused by regrading adjoining street.

451, 476

HISTORY OF LAW.
Equity: Development of court of chancery from king's council. 129

Roman law: History of Roman private law. 992

Miscellaneous: History of the treatment of choses in action of the common law. 997-1030 The baronial opposition to Edward

120 Labor legislation during the nine-

329 teenth century. The nature, origin and extent of

I-3 Outline of a course on the history and system of the common law.

Procedure and courts: Civil procedure: the progress of the law. 1918–1919. 236-254 l Defects in system of courts and in procedure and suggested reforms. 326

Form and sources of procedural law. 2 36-2 38

Proposed changes in methods of regulating procedure. 236-238 roperty: Waters: Influence of Property:

French law upon American law. 133-167

Reports: Select cases before the king's council. 129

HOMICIDE.

See also Self-defense; Criminal Law.

Intent: Intent to kill not coincident with killing.

Locality of offenses: Is homicide committed where the blow is struck or where the death occurs. **843**, 863

HUSBAND AND WIFE.

See also Divorce; Fraudulent Conveyances.

Community system: Right of wife to sue for personal injuries where husband refuses to join.

Contracts between husband and wife: Consideration in convey-

ances between husband and wife in fraud of creditors. **303**, 316 Rights of wife against husband and in his property: Dower denied to slayer of husband. 475 Right of wife to a house separate from that of husband's mother.

Right to widow's allowance. Rights and liabilities of husband as to third parties: What law Fallacy of basing husband's liability for necessaries on "agency by 627 necessity."

Husband liable by law of domicile for necessaries furnished wife elsewhere. 14-15

Rights and liabilities of wife as to third parties: Contributory negligence of husband driving automobile not imputed to wife.

Wife not liable for funds fraudulently obtained by husband and spent by her for necessaries in good faith.

Tenancy by entirety: Personalty.

983

I

ILLEGAL CONTRACTS.

Contracts against public policy: Contract to procure evidence, compensation to be contingent upon success of suit. Member of legislature acting as land agent between vendor and government.

INCOME TAXES.

See under Taxation.

AND INFORMA-INDICTMENT TION.

Finding and filing indictment: Indictment found by grand jury from which court had excused certain members of panel on its own motion.

Sufficiency of accusation: Necessity of allegation of specific instances in indictment for practicing medicine without a license.

INFANTS.

Contracts and conveyances: Infant trustee compelled to perform 484 trust.

INHERITANCE TAXES.

See under Taxation.

INITIATIVE AND REFERENDUM.

Exercise in Canada under British North American act. Referendum as applied to amendments to federal constitution. 287, 312

INJUNCTIONS.

See also Equitable Servitudes.

Acts restrained: Suit in foreign jurisdiction after Statute of Limitations had run in own state.

92, 114 Suit in foreign jurisdiction in evasion of the domestic law. 92, 114

INSANE PERSONS.

The unsound mind and the law. 881 Adjudication of insanity: Conflicting adjudications as to insanity: effect on capacity to sue. Effect of subsequent adjudication of sanity in foreign court upon capacity to sue in court where previously adjudged insane.

INSURANCE.

Nature and incidents of insurance contracts: Delivery of a lifeinsurance policy. 198-222 Delivery of life insurance policy: is it essential to validity. 200-222 Does approval of application for life insurance complete contract.

206-218 Life insurance contract: whether unilateral or bilateral. 198-200 Life insurance policy held not " movable effects" under statu-**587**, 615 tory dower. Must acceptance of application for

life insurance be communicated to applicant. 206-218

Insurable interest: Contracts for sale of land. 828-830 Construction and operation of

conditions: Condition that policy shall not take effect until delivered. 218-222

Defenses of insurer: Non-delivery of completed contract. 108-222

Miscellaneous rights of insured: Remedies for failure of company to deliver completed policy.

201-202 **Rights of beneficiary:** Compliance with conditions regulating change of beneficiary.

References in heavy-faced type are to Notes and BOOK REVIEWS; in plain type to RECENT CASES; and in italicized type to ARTICLES.

Reinstatement of suspended policy after death of insured. State control of insurance companies: Is an insurance company a public service corporation in that it must accept all proper applicants. 216-217 **Insurance agents:** Delivery of policy to agent: whether a delivery to insured. 208-209 Marine insurance: Marine risk or war risk: general discussion. **706,** 732 operating - collision while **706,** 732 without lights. its principles and practice 1079 Law of general average. Origin and development. Recovery denied for partial loss from marine risk when followed by total loss from war risk. 732 Mutual benefit insurance: Right of beneficiary to reinstate suspended policy after death of insured. 733 INTERNATIONAL LAW. In general: China's new constitution and international problems. 328 Problems of the war. International flying convention and the freedom of the air, The. 23-38 Legal obligations arising out of treaty relations between China and other states. 328 Nature and extent of sovereignty: Territorial waters: costs and damages refused for a violation of neutrality where unintentional. Rights of citizens against foreign governments: Claim for freight and demurrage by neutral shipowner against enemy cargo seized 738 as prize. Rights of ideas - and of corpora-358-37**5** tions. Public corporation. 365-368 Trusts and eleemosynary corpora-360-365 League of nations: Its principles 487 examined. James Madison's Notes of Debates in the Federal Convention of 1787 and their relation to a more perfect society of nations: 744 a review. Sovereignty, independence, and equality in a league of nations. 487

Suits between states in Supreme Court compared to suits between nations in an international tribunal.

489

Its constitutionality under the

United States constitution. 131
The principle and the practice. 125

Treaties: Constitutionality of treaty protecting migratory birds.

Reservations to treaties: their effect and the procedure in regard thereto. 874
Thoughts on the union between Eng-

Thoughts on the union between England and Scotland 1082

INTERSTATE COMMERCE.

See also Carriers; Constitutional Law; Railroads (Regulation of Rates).

What constitutes interstate commerce: Intrastate railroad carrying goods outside state. 777-778 Migratory birds. 281, 312

Control by Congress: Exclusiveness of federal control. 292, 312 Control of exclusively intrastate shipments over federal owned railroad. 784-700

Control of transportation as a means of regulating commerce.

Federal power to own and operate railroads in peace time. 775-793 Mann-Elkins Act: effect upon limitation of liability of telegraph companies for interstate messages. 988

Power of Congress to control purely intrastate commerce. 784-790
Power to own railroads engaged in exclusively interstate commerce denied. 791-793

Control by states: Control by state of federal owned railroad. 778-786 Effect of commerce clause on exclusively intrastate commerce.

784-790
Inability of states to control intrastate rates under federal control.

94, 115
Regulation of rates and tolls over

interstate bridges and ferries.

State laws as to liability of telegraph companies for error or delay after passage of Mann-Elkins Act.

988

Taxation of property engaged in interstate commerce. 96
Taxation and regulation by states

of property in possession of

United States when engaged in interstate commerce. 94 Interstate commerce commission: and the

Railway valuation 902-928 courts.

INTOXICATING LIQUORS.

License to sell liquor granted during national prohibition set aside at 478 suit of private citizens. Effect of national prohibition on licenses issued by state. 478 Interpretation: "drinkable liquids" 615 in Canadian statute.

Prohibition and the war power.

585, 608 Eighteenth Amendment: Concurrent power of Congress and the several states to enforce the Eighteenth Amendment. 968 Constitutionality of Eighteenth Amendment upheld. 659-666 Meaning of words "concurrent power." 968

Sales: Criminal responsibility of employer for acts of employee. 115

JOINT ADVENTURES.

Fiduciary relation between co-adventurers - duty to divide secret **852,** 868 Joint adventure distinguished from a 852 partnership.

JUDGMENTS.

See also under Conflict of Laws; Constitutional Law; Evidence.

In general: May court render declaratory judgments. Essentials to validity: Jurisdiction

conferred by appearance after **960**, 984 judgment given. Service on nonresident individual doing business in state by service

238-240 on agent. Operation as bar to other actions: Judgment as evidence in a later proceeding. **850**, 865

Operation as against third parties: Judgment as evidence in a later proceeding. **850**, 865

Setting aside and vacating judgment: Effect of order vacating order to vacate judgment.

960, 984

Foreign judgments: Enforcement of foreign judgments. **960,** 984 Jurisdiction conferred by appearance after judgment. **960**, 984

JUDICIAL NOTICE.

Uniform state laws: Negotiable Instrument Law. 255-256

JUDICIAL SEPARATION.

Adultery of petitioner as a defense, 720

JURISPRUDENCE.

Interpretation of statutes. Juristic theory and constitutional law.

The nature, origin and extent of law.

Property rights the all-absorbing legal conception of the nineteenth 330 century.

Rule and discretion in the administration of justice.

Sovereignty and the law: Austin's 333 theories.

JURY.

Suspension of trial by jury in England during wartime. 245

LABOR UNIONS.

See Trade Unions.

LANDLORD AND TENANT.

Nature and incidents of the relation: Civil liability of landlord for forcible eviction of tenant.

Tenancies from year to year and month to month: Date of expiration of current year for tenant holding over.

Tenancies at will and at sufferance: Landlord's right to evict tenant by force. 733

Repair and use of premises: Liability of lessee for injuries to invitee on portion of premises not covered by lease.

Rent: Apportionability where term dropped on death of life tenant. 571-572

condition Right of entry for broken: Effect of bankruptcy of tenant upon right of entry. **709,** 725 LAW.

333 Historical method in law. 253-254, **621** Tustice for the poor. 745 Law and the family: a review. Present day lawless enforcement of 956 law. Rule and discretion in the adminstra-

972 tion of justice. Study of decisions of Mr. Justice 972 Robinson of North Dakota. The law as a vocation.

Legal preparation tested by success in practice. 168-197 The growth of administrative courts due to conservatism of the law. 621

The nature, origin and extent of law. **99**5 The young man and the law.

Written law and customary law. 335 LAW AND FACT.

Provinces of court and jury: Judgment not withstanding the verdict. 246-248

Motions of both parties for a directed verdict as a waiver of jury trial. 246

Particular questions: law or fact: Proximate consequences. 639-640 Foreseeability of intervening force. 652-654

LAW SCHOOL.

Langdell and the law school. 518-525 Law school and office preparation.

176-180

Legal preparation tested by success in practice in North Dakota.

168-197 Rebirth of the Harvard Law School by the introduction of the case system by Langdell. 493-517 Registration, 1919–1920. 85

LEAGUE OF NATIONS.

See under International Law.

LEGACIES AND DEVISES.

See also Charities and Trusts for Uses; Rule against CharitablePerpetuities.

Classes of legacies and devises: Conditional bequest: annuity conditional upon continued separation from husband. 483

Conditional bequest: condition in restraint of marriage. 317

Construction: Forfeiture on condition which condition happens in testator's lifetime.

Payment: Priority of general legacy over residuary legacy to income from estate during first year before distribution. 084

Title and rights of devisees and legatees: Priority of general legacy over residuary legacy to income from estate during first

Void or voidable bequests and devises: Annuity to a wife while living apart from her husband.

LEGAL BIOGRAPHY.

A lawyer's life on two continents. 994 Campbell, John Archibald, Associate Justice of the United States Supreme Court. 1083 Clarke, Right Hon. Sir Edward, K.C.: an autobiography. 490 Iohn Marshall.

The bench and bar of England: a review. 883

Wigmore, John H. 629

LICENSES.

License issued to sell liquor during national prohibition set aside by suit of private citizen.

LIENS.

Equitable lien: unpaid vendor of land. 485

— rights of assignee. 485—effect in equity of a con-485 ditional contract to mortgage.

456, 476 -provision in bond that holder shall share in any future mortgage placed on existing **456,** 476 property.

Lien or charge distinguished from an equitable title or interest. 64-65 Priority of conditional vendor's lien over common-law lien for repairs

on automobile. Right of holder of lien or charge to specific performance against a receiver. 64-65

LIMITATION OF ACTION.

Accrual of action: Against drawer of check. 107, 278 Effect of appeal on running of statute

of limitations on action based on prior action. **Pleading:** Does an amended pleading

state a new cause of action which would be barred by the statute.

Operation and effect of bar by limitation: Effect of delay by sub-

stituted trustee to sue for breach of trust held to bar cestui que trust.

Right against drawer of check barred by failure to prevent check for ten years. 107

M

MANDAMUS. Acts subject to mandamus: General discussion. Refusal of land office to grant patent **462**, 478 Persons subject to mandamus: Executive departments of federal **462,** 478 government. MARINE INSURANCE. See under Insurance. MARKETABLE TITLE. See Specific Performance (Defenses). MARRIAGE. Validity: Marriage by mail. 13-14 Nullification: Jurisdiction to annul a marriage. MASTER AND SERVANT. Liability of master to third persons. See under Agency. Employers' Liability Acts: Constitutionality: liability without **86,** 116 Workmen's Compensation Acts: Constitutionality of statute providing compensation for facial disfigurement. Disobedience as bar to recovery. 318 Have they exterritorial operation. 22 Retroactive effect of an amendment. Violation of statute as bar to recovery. 318 MECHANICS' LIENS. See also *Liens*. Efficacy of mechanic's lien on automobile over chattel mortgage of same in another state. 15-16 MISTAKE. As ground for reforming instrument. See Reformation of Instruments. MORTGAGES. Chattel mortgages: Chattel mortgage on automobile subjected to mechanic's lien on same in other state. 15-16 **Priorities:** Effect in equity of a conditional contract to mortgage. **456**, 476 Priority of assignee over assignor of one of several notes secured by

same mortgage: which law gov-

erns.

256-257

MUNICIPAL CORPORATIONS. Progress of the law, 1918-1919. 1058-1060 Nature, creation and organization: Municipal corporation in essence the state itself in international 365-368 relations. Governmental powers and functions: Payment to industrial school for education of children. Proceedings of council or other governmental body: Power to suspend rule of procedure in violation of rule against alteration without prior notice. Municipal property: Alienation or diversion to other purposes. 1068-106**0** City as riparian owner of stream flowing through it. 157-158 Liability for torts: municipal functions: Sidewalks: notice of one defect putting city on notice of another defect. Police power and regulations: Necessity of reasonableness. 1064 Ordinance denying right of maintaining billiard rooms to aliens. 108 Right to prohibit use of streets to public. 1065-1067 Franchises and licenses: Street 1065-1067 railway companies. Right of city to revoke or compete 1066-1067 with. Right of city to demand compensation for use of streets. 1067-1068

Officers and agents: Distinction be-

municipal corporation. 1061 Elections: effect of ineligibility of

performance of duty.

Resignation and removal.

ber of votes.

tween officer and employee of

candidate receiving highest num-

Mandamus by individual for non-

Legislative Control: General prin-

Power of legislature to divide or

abolish municipal corporations without consent of inhabitants.

1060-1061

1058-1060

1063

1058

Judicial control: Validity of license issued during national prohibition tested by certiorari brought by private citizen.

Actions by or against municipal corporation: Mandamus by student to compel issuance of diploma. 1063

N

NATURALIZATION.

See under Aliens.

NEGLIGENCE.

See Blasting; Explosives.

Duty of care: Notice of one defect in sidewalk putting city on notice of another defect. 985

NEW TRIAL.

In general: May a new trial be granted to extend to only one issue. 249-250

Grounds for granting new trial:

Correct instructions given by court in an improper manner. 252

Erroneous instructions by court followed by failure to follow those

croneous instructions by court followed by failure to follow those instructions by jury giving correct verdict.

Excessive damages. 248-249
Instruction of jury concerning a
degree of homicide less than that
shown by the evidence. 980
Misconduct by public prosecutor.

Must error be prejudicial. 250-252
Prejudicial conduct by trial judge
in intimidating witnesses of accused. 956
Present day lawless enforcement of

NUISANCE.

What constitutes a nuisance: Undertaking establishment and morgue in residential district. 613

O

OFFER AND ACCEPTANCE.

Silence as acceptance in the formation of contracts. 595, 614

Mutual assent: Must it be subjective or objective in equity.

Examples of application of objective test.

Should it be tested objectively or subjectively.

370-400

Unilateral contracts: At what moment is application for life insurance policy accepted.

Delivery of a life-insurance policy.

108-222

Is communication of acceptance of application for life insurance essential. 202-218

P

PARENT AND CHILD.

Adoption of child held to effect a partial revocation of a will. 724
Parent's obligations: refusal by equity to compel father to support minor child. 729
——liability of father of adult pauper for his support under Scotch law. 14-15

to support child in legal custody of divorced mother. 728

PAROL EVIDENCE RULE.

Substantive law expressed in terms of evidence: Bills and

notes: extrinsic evidence as to character of anomalous indorser under the Negotiable Instrument Law. 262

PARTIES.

Counterclaim against plaintiff and another in the alternative under the judicature acts. 614

PARTNERSHIP.

See also Joint Adventure; Voluntary
Associations.

Dissolution and winding up: winding up professional partnerships 1070

Rights and duties of surviving partner as to contracts for personal service.

Right of surviving partner to compensation for services in winding up. 1070

Nature of partnership: Effect of war on partnership of enemy belligerents.

Partnership distinguished from a 852 ioint adventure.

Rights, duties and liabilities of partners inter se: Fiduciary re-86g lation after dissolution.

PERSONS.

See also Husband and Wife; Parent and Child.

PLEADING.

Aider of defects: missing allegation in plaintiff's complaint supplied in plaintiff's reply. Allegations in the alternative. 244-245 Amendment of pleadings. 242-244 Counterclaim against the plaintiff and another in the alternative under

the Judicature Acts. Does an amended pleading state a new cause of action which would be barred by the Statute of Limitations. 242-243

Petition in equity for cancellation of deed on ground of fraud amended to state a cause of action for deceit at law. 242-243

Theory of the pleadings. 240-242 Theory and amendment of pleadings in Ontario. 241-242

POLICE POWER.

Interest of public order: Denial to aliens of right to maintain billiard

Regulation of trade, professions, and business: Altering of rates fixed by contract by the public service commission as a valid exercise of the police power. 97

POLITICAL SCIENCE.

Basis of the modern state. 335 Principes de droit public; a treatise on the theory of the state. 334

POWERS.

Disposal of residue by will as a valid exercise of power to appoint by will: what law governs.

PRESUMPTIONS.

Existence and effect of presumptions in particular cases: Foreign law: presumption that statu-

tory law governing case is same as statutory law of the forum. 315 Legitimacy: presumption of legitimacy of child born in wedlock. **306,** 315

PRIVACY, RIGHT OF.

Infringement of the right: Interpretation of New York statute prohibiting use of name or picture **711,** 735 without consent.

Publication of picture in weekly news film and posters. 711, 735

PRIVILEGE.

From service of process, see *Process*. Manner and effect of service: Service on agent of foreign corporation for foreign cause of action after withdrawal of corporation from state held invalid.

Service upon nonresident individual by service on agent. 238-240 Service on nonresident individual operating automobile within state.

Service on nonresident temporarily in state on a public duty. 721, 734

PROCESS.

Manner and effect of service: Service on agent of foreign corporation for foreign cause of action after withdrawal of corporation from state held invalid. 730 Service upon non-resident indi-

238-240 Service on nonresident individual operating automobile within state.

vidual by service on agent.

Service on nonresident temporarily in state on a public duty. **721**, 734

PROFITS À PRENDRE.

Fishing: right of public to fish in nonnavigable, non-tidal stream. 325

PROHIBITION.

See Intoxicating Liquors.

PROXIMATE CAUSE.

Efficient cause of injury: Proximate consequences of an act. 633-658 Direct result of active force.

644-645 Liability for failure to act. 637-639 Origin of term "proximate"

633-636 Test of proximity. 641-644 Where defendant's active force has come to rest in a dangerous posi-

tion. 650-652 Whether consequences are remote or proximate a question of law.

639-640

Intervening cause: Act of physician in treating wound caused by de-648-649 Act or failure to act by plaintiff himself. 657 Attractive nuisance. 656 657 Illegal act of third person. Notice of one defect in sidewalk putting city on notice of another defect. Intervening force actively caused by defendant's act. 646-650 Intervening act done at request of defendant. 646 Intervening person placed in danger by defendant's act. 647-648 Person attacked by defendant acts in self-defense. 649 Must intervening force be foresee-652-656 able. Person or animal stirred to action by defendant's conduct. 646 Question for jury or court. 652-654

See also under Municipal Corporations.

Eligibility to office: Eligibility of women: woman as clerk of court. **295,** 314

PUBLIC SERVICE COMPANIES.

See also Carriers.

Regulation of public service companies: Increase of rates because of rise in prices and expenses without valuation of company's property.

Protection of public service enterprises from competition. 576, 614 Railway valuation and the courts. 902-928, 1031-1057

Right of company to increase rates fixed by franchise. **97,** 116 Right of public service commission to alter rates fixed by contract. 98

Rights and duties: Right to seize coal shipped over its line and appropriate it to a contract with shipper to supply carrier with coal. 605

OUASI-CONTRACTS.

PUBLIC OFFICERS.

See also under Contracts (Contracts implied in fact.)

Nature and scope of obligation: Implied warranties not a quasicontractual obligation but a contract implied in fact. 383-385 Measure of damages as a test of whether court is proceeding on contract or quasi-contract.

376-378 Quasi-contract a meaningless phrase outworn.

Recovery where parties proceed under mistaken belief in existence of contract a contract implied in fact rather than a quasi-contract. ا 385–390

Money paid under compulsion of law or duress: Recovery of taxes

paid under protest. Taxes: local assessments for particular purpose diverted to general funds.

What constitutes an involuntary payment of taxes. 318

Recovery for benefits conferred without contract: Measure of damages when increased value is less than cost of work. 385-390

Rights arising from mistake of fact: Money loaned in ignorance of previous institution of bankruptcy proceedings against borrower. 862

R

RAILROADS.

See Carriers; Constitutional Law; Federal Control; Interstate Commerce; Public Service Companies; Street Railways.

Regulation of rates: Railway valuation and the courts.

902-928, 1031-1057

Growth of theory of court control over rate regulation. 903-909 Basis of doctrine of regulation based on fair value of property.

903-912 Elements entering into valuation of railways and consequent regulation of rates. 912-924

Difficulties and uncertainties in rate | **RECORDING** regulation. 924-928 Difficulty of determining fair value. 1031-1057 Exchange value as a basis for regulation of rates. Reproduction value as a basis for regulation of rates. 1044-1048 Effect of Esch Cummins bill on cer-Value as a "going concern."

1037-1044

REAL PROPERTY.

See Vested, Contingent and Future Interests; Rule Against Perpetuities.

REBATES.

See Carriers.

RECEIVERS.

Effect of receiverships upon specific performance of personal service contracts. 78-79

Receiver in bankruptcy: effect upon specific performance of contracts.

Receivers after judgment under creditors' bills and by way of equitable execution. 66–67

Receiver appointed after judgment distinguished from sequestrator.

Rights of vendee in land contract where land has been placed in hands of a receiver. 68-7.3

Rights of vendor in land contract where property of vendee has been placed in hands of a receiver. 73-75

Specific performance in connection with receiverships. 64-84

Specific performance in connection with equitable receivers. 67-79

Specific performance in connection with receiver appointed after judgment to carry judgment into effect. 65-66

Specific performance by or against a receiver in contracts concerning land other than those between vendor and purchaser.

Specific performance by or against receivers in contracts for sale or purchase of chattels and securīties. 76-78

Specific performance by or against receivers or liquidators to dissolve corporations. 81-82

Specific performance of contracts entered into by receivers themselves.

AND REGISTRY LAWS.

Effect of recording: Effect of fraudulent cancellation of records by subsequent mortgagee.

1031-1044 REFORMATION INSTRU-OF MENTS.

Reformation of insurance policy for mistake of fact.

REMOVAL OF CAUSES.

Separable controversy. 970 Fraudulent joinder as ground for removal from state to federal **970**, 985

RENT.

See under Landlord and Tenant.

RES IPSA LOQUITUR.

See under Burden of Proof.

RES JUDICATA.

See also Judgments.

Matters concluded: Grant of administration as proof of common-**850**, 865 law marriage. Judgment as evidence in later pro-

850, 865 ceedings.

RECISSION.

Rescission for breach of warranty: Deductions for benefits received by purchaser on rescission for breach of warranty. **602.** 615

RESTRAINT OF TRADE.

Contract not to engage in business: Contract not to use film name when acting for rival producers. 320

Sherman anti-trust law: Price restriction on the resale of chat-**966**, 986 The steel corporation case.

964, 986

RESTRAINTS ON ALIENATION.

See under Trusts.

RESTRICTION AND RESTRICTIVE AGREEMENTS AS TO THE USE OF PROPERTY.

See Equitable Servitudes.

Personalty: restrictions on resale price. **966**, 986

RESULTING TRUSTS.

See under Trusts.

RIGHT OF ENTRY.

See under Landlord and Tenant.

RIGHT OF PRIVACY.

See Privacy, Right of.

RIPARIAN RIGHTS.

82-84

See Waters and Watercourses.

RULE AGAINST PERPETUITIES.

Application to contingent claims against estate. 537-541

Charitable gifts: Gift to first orphan home to be established in X, with no preceding gift. 986

—— remoteness where there is no preceding gift. 986

Fallacy of applying rule to property and not to contracts. 537-541

Fallacy of applying rule to property and not to contracts. 537-541 Gifts to classes. 534-535 New York rule: suspension of ownership. 321 The policy against remoteness.

535-541

Separability of limitations. 531-535
Should separable limitations be implied. 531-535
Should courts construe a limitation which may be too remote as bad only for the excess. 531-535

RULE IN SHELLEY'S CASE.

Effect of estate to A for life, remainder to her lawful issue under statute abolishing necessity of words of limitation in will to pass a fee.

Whether issue is a word of purchase or of limitation. 988

S

SALES.

Rescission for breach of warranty. See Rescission.

Conditional sales: Applicability of act requiring recording of chattel mortgages.

Effect of unrecorded conditional sale against bona fide purchaser in another state.

15-16

Priority of lien of conditional vendor of automobile over common-law lien for repairs. 868

Fraud and related matters: Application of Bulk Sales Acts.
717, 731

Risk of loss: On buyer under c. i. f. contract. 479

Subject matter of sale: Future crops: subsequent mortgagee preferred over buyer. 479

Time of passing of title: c. i. f. shipments. 479

Warranties: in general: Damages for breach of warranty, see *Damages*.

Implied warranties: A contract implied in fact rather than a quasicontract.

383-385

True basis of an implied warranty.

Food served in restaurant. 384-385

Warranties: remedies for breach:
Deduction for benefits received
by purchaser on rescission for
breach of warranty. 602, 615
Recovery of consequential damages.

SALVAGE.

In general. 453, 480 The nature of salvage service. 453

SEARCHES AND SEIZURES.

Validity of judicial order requiring defendant to produce papers, the existence of which was discovered by an unlawful search. 869

SELF-DEFENSE.

Burden of proof in homicide case placed on defendant. 609

SERVICE OF PROCESS.

See under Process; Conflict of Laws (Jurisdiction of courts).

SET-OFF AND COUNTERCLAIM.

Against plaintiff and another in the alternative under the Judicature Act. 614

Cross bill in equity adding new parties.

Pendency of suit in which present claim might be set up as a counterclaim as ground for abatement. 857

SOVEREIGN.

610

Action against governmental agency: telegraph and telephone companies under federal control. 322

Compensation for property taken for the defense of the realm. 713, 735

Prerogative of the Crown and compensation as a matter of right. 713, 735

SPECIFIC PERFORMANCE.

See also Equitable Conversion.

General nature and scope of equitable relief: Conditional decree in specific enforcement of contract for continuous performance.

Effect of receivership on contracts

concerning land other than vendor and purchaser contracts. Effect of receiverships on specific performance of contracts for sale of chattels and securities. 76-78 Insolvency of defendant as affecting right to specific performance. 429-430 Requirement of certainty in decree for specific performance. 433-435 Specific performance in connection with receivership. 64-84 Specific performance in connection with equitable receivers. Specific performance in connection with receivers after judgment under creditors' bills and by way of equitable execution. 66-67 Specific performance against receivers appointed after judgment to carry the judgment into effect. Specific performance of contracts entered into by receivers them-82-84 selves. Affirmative contracts: Construc-432 tion contracts. Contracts for continuous perform-435–437 Contract to devise in consideration 480 of personal services. Contracts to lend money. 432 Contracts for the sale of stock. 430-432 Contract to sell goods to plaintiff enforced by injunction against selling to anyone else. Effect of receiverships upon specific performance of personal service contracts. 78-79 Installment contracts. 430 Options. Q50-Q5I Personal service: enforced by negative decree. 4.37-440 Right of purchaser to specific performance when land has been placed in hands of a receiver. Right of vendor to specific performance when vendee's property has been placed in hands of a receiver.

Negative Contracts: Contracts for personal service. 437-440 Contracts not to compete. 440-441 Consideration: Inadequacy of consideration as a defense: contract to devise in consideration of personal services. 480 Promises under seal. 834-837

Defenses: Effect of appointment of receiver or liquidator to dissolve corporation. Effect of receivership in bankruptcy upon right to specific performance. 79-81 Hardship and unfairness. 954 Marketable title. 929-933 - all claimants not before 929-93I title gained by adverse possession. 929-933 Mutuality. 955 Mutuality of remedy in contract to lend money. 4.32 Plaintiff's default or laches. 950-954

STARE DECISIS.

Rule and discretion in the administration of justice as applied in North Dakota by Mr. Justice Robinson. 972

STATES.

See also Constitutional Law; Federal Courts; Interstate Commerce.

Concurrent jurisdiction of state and United States to punish sedition.

Constitutionality of state statute making it a misdemeanor for any one of draft age and not in army to refuse to work.

Grant of school lands to states as creating a contract. 409-414

Must legislature submit question of ratification of federal amendment

ratification of federal amendment to referendum. 287, 312 State as trustee of land granted

to it for educational purposes.

State's right to tax and regulate intrastate commerce under federal

control. 94, 115
State socialism and the school land grants. 401-419

The socialist movement in the western states.

401-409

Use of school funds by western states for state industrial enterprises.

What are public uses within taxing power of state. 405-409

STATUTE OF FRAUDS.

See also Trusts (Resulting Trusts); Constructive Trusts.

Oral contracts to devise land in return for services to be rendered during owner's life. 946-949

Oral contracts to leave property by

will. 933-93**5**

Interest in lands: Application of Statute of Frauds to equitable servitudes.

Contracts to devise land in return for services to be rendered during owner's life.

Oral contract to procure mortgagee of land.

735

Part performance: Action in reliance

Part performance: Action in reliance upon oral promise to impose restrictions on dominant tenant.

Check as part payment under statute. 870 Effect of part payment on a single contract to sell land and person-736 Effect of laches on Statute of Limitations. 953-954 Equitable fraud. Equitable fraud. 943-944 Historical basis and growth of doc-935-944 Oral contracts to devise land in return for services to be rendered during owner's life. 946-949

Part performance distinguished from fraud as a ground for taking case out of statute. 937-939
Possession as ground. 942-943
Parol agreement for change of location of easement. 117
Recent decisions. 945-050

Parol gifts of land acted upon.

Recent decisions. 945-950

Sales of goods, wares and merchandise: Effect of part payment on a single contract to sell land and personalty. 736

Trusts: Extinguishment of trust in land required to be in writing.

Oral trust: effect of subsequent memorandum as against creditors of trustee. 692

— void or unenforceable. 692

STATUTES.

Interpretation: Contributory negligence: whether a defense to action by child employed under age allowed by statute. 109
Drinkable liquids in prohibition statute of Canada. 615
Effect of prior repealed statute on same subject. 615
Espionage Act — The Abrams case: a dissent. 747-774

Exclusiveness of statutory remedy.

Federal estate tax of 1916: is it chargeable against residue or against separate legacies. 322
Interpretation from reason of statute rather than words.

Life insurance policy held not 'movable effects." 587, 615 (Movable effects in dower. 587, 615

National Bank Act: taking interest in advance held not usury. 725

New York statute forbidding use of person's name or picture without consent interpreted. 711, 735 Soldiers' and Sailors' Civil Relief

Acts.
Soldiers' and Sailors' Civil Relief
Acts: person in military service a
ioint defendant. 087

The analytical, historical and equitable methods of interpretation.

The application of bulk sales statutes. 717, 731
Workmen's compensation acts: amendment construed retroactively. 317

STREET RAILWAYS.

In general: Is street railway a railroad within § 4a of Bankruptcy Act providing that a railroad may not be a voluntary bankrupt. 309 Franchises: Grant of exclusive rights with protection from competition 576, 614

SUNDAY LAWS.

Delivery on weekday of goods contracted for on Sunday. 616

SURETYSHIP.

See also Bail; Bills and Notes (Defenses).

Surety's defenses: extension of time to principal: Under the Negotiable Instruments Law. 277 Surety's defenses: miscellaneous:

Are defenses specified in Negotiable Instruments Law for sureties exclusive. 277

SURVIVAL OF ACTION.

Against estate: Deceit. 570 Unpaid alimony 569-570 In favor of estate: Claim under Sherman Act. 570-571

T

FAXATION.
See under Quasi-Contracts (Money paid
under duress or compulsion of law).
General limitations on the taxing
power: Local assessment for
particular purpose: may it be di-
verted to general funds. 481
Power of federal government under Sixteenth Amendment to tax in-
come of state officers and form
state bonds. $794-812$
State income tax on net income of
foreign corporation engaged in
interstate commerce. 736
State tax on federal property.
778-780 Taxation of foreign movables. 582
Taxation of foreign movables. 582 Taxes measured by wealth. 582, 616
Collection and enforcement: May
state imposing the tax sue in
another state to recover amount
of it. δ
Suit by one state in courts of an-
other state. 840, 870
Methods of assessment: Intangible
valuation based on excessive
earnings. 323 Purposes for which taxes may be
levied: State and municipal pri-
vate enterprises. 405-400
State bonus for soldiers and sailors.
. 846, 871
Property subject to taxation: Good
will of a business. 323
Property in possession of United States engaged in interstate com-
merce as subject to state taxation.
94
Stock dividends as income. 885-901
Where property may be taxed:
Carrying on business true ground
for taxing corporation rather than
domicile. 370–371
Inheritance tax on movables abroad. 582, 616
Intangible property belonging to a
ward who resides in different
state than his guardian. 7-8
Taxation of interstate rolling stock. $6-7$
Particular forms of taxation: Local
assessment for "Stock law
Fences "; diversion to general
funds. 481
Income taxes: History of adoption
of Sixteenth Amendment and reasons therefor. 794–798
10450115 111010101. /94-/90

Income tax on profits of sales abroad not a tax on exports. 811-812 Judicial construction of Sixteenth Amendment. 800-812 Sixteenth Amendment: does it empower Congress to tax income on state bonds and salaries of state 794-812 officials. Sources of income free from tax prior to Sixteenth Amendment. State income tax on income of residents derived elsewhere. State income tax on net income of foreign corporation engaged in interstate commerce. Taxability of stock dividends as income. 885-goi Taxation of incomes of trusts and partnerships. Taxability of capital increment as income. 805-807 Taxation of stock dividends as income unwise. 899-901 Whether business trusts are taxable as associations under the federal income tax law. 118, 705 Inheritance taxes: Contingent in-Deducting federal tax for purposes of state tax and vice versa. Effect of compromise agreement changing amount received under will as affecting amount taxed. Enforcement by suit in another state against beneficiaries. **840.** 870 Federal inheritance tax: an estate tax payable from residue. 322, 575 Foreign personalty passing to foreign beneficiaries never within **840,** 870 state. Rate of tax on estate of non-resident based on amount of property **582**, 616

Reservation of power of revocation in deed of trust for benefit of

Transfer to take effect at death. 481 Treatise on the law of inheritance

Vendor's interest in land held not tangible property within New

What constitutes doing business

573-574

822-823

children.

taxation.

York transfer tax.

References in heavy-faced type are to Notes and and in italicized type to Articles.	l Book Reviews; in plain type to Recent Cases;
within the state by a nonresident individual under New York tax	Reasons for growth during nineteenth century. 331
law.	century. 331 The state in relation to labor. 331
License taxes: Tax on automobiles	TRANSFER OF STOCK.
graduated according to carrying	Attachment of stock in domestic cor-
capacity. 737	poration held outside state by
TELEGRAPH AND TELEPHONE	nonresident. 100
COMPANIES.	TREASON.
Federal control: Liability to suits	Concurrent jurisdiction of state and
while under federal control. 322	United States to punish treason.
Right of state to regulate intrastate	110
rates while under federal control. 94, 115	TRESPASS TO REALTY.
Contracts and stipulations limit-	For damage by Blasting, see under
ing liability: Effect of Mann-	Explosives. What constitutes a trespass: Horse
Elkins Act upon limitation of lia-	straying on highway. 470
bility for interstate messages. 988	TRIAL.
Damages for error, delay and non-	Lawless methods employed in trials
delivery: Effect of Mann-Elkins	by judges and public prosecutors.
acts upon state statutes as to	956
limitation of liability for inter- state messages. 988	Province of court and jury: Duty
State statutes held inoperative on	of court to instruct witness con- cerning privilege against self-
interstate messages. 988	incrimination.
TENANCY IN COMMON.	Examination of witnesses by court
Ejectment denied one co-tenant	in Abrams case. 747-774
against lessee of premises from	Taking case from jury: Effect of
other co-tenants. 482	both parties moving for a directed
Lease by one co-tenant: effect as	verdict. 246
assignment of his rights to the use of the premises. 482	Trial without jury: English war-
TORTS.	time legislation. 245
See also Explosives; Proximate Cause.	TROVER AND CONVERSION.
Liability of occupier of premises:	What constitutes conversion: Appropriation by railroad of coal
Lessee liable for injuries to in-	shipped over its lines to contract
vitee on portion of premises not	of its own with consignor. 605
covered by lease. 871	Damages: Conversion of stock by
Liability without intent or negli-	pledgee. 474
gence: Owner of automobile liable for burning of building in	TRUSTS.
which it was kept.	See also Charities and Trusts for
The modern tendency. 550-555	Charitable Uses; Constructive
Unusual cases of tort liability:	Trusts; Statute of Frauds. Progress of the law, 1918-1919.
Liability of agent to principal for	688-705
negligently publishing a libel	Nature of the trust relation: Ex-
contained in a letter from prin-	pectancy as a trust res. 691
cipal to agent. 100 Nervous shock from fright caused	Imperfect gifts not trusts. 690-691
by spoken words. 324	Necessity of trust res. 688-690
Negligence of attorney in failing to	Obligee as trustee for obligor. 692 Obligor as trustee of his own obliga
bring suit within statutory period.	tion for the obligee. 689-690
605	Sale of "cable transfer" as a trust
TRADE MARKS AND TRADE	for the buyer. 279-280, 689-696
NAMES.	Tentative trust as a testamentary
Descriptive words. 617	disposition. 692-693
TRADE UNIONS. Labor law of Maryland. 329	Statute of Frauds (Trusts).
Labor law of Maryland. 329 The national war labor board. 39-63 Legal status of unincorporated trade	Annuity conditional upon continued
THE HALIOHAI WAI IABOI BOATA. 39 03	separation from husband. 483

298, 325

union.

OCK.

ALTY.

NVERSION.

ds (Trusts). nal upon continued separation from husband. 483 Business trusts. 704-705

Cestui que trust as trustee. 324 Cestui que trust as trustee of a spendthrift trust. 483 Consideration: in general. 690-691 Consideration: gratuitous parol forgiveness of chose in action. Deposit in savings bank in name of depositor in trust for another.

692-693 Meritorious consideration as ground for imposing trust in testator's estate for purpose of carrying out promise to pay an annuity.

484 Trust for benevolent purposes. 694 Trusts for masses. 693-694 Trust fund created by settlors residing in different states: what law governs.

Trusts to promote atheism. 694 Cestui's interest in the res: Assignment by cestui of equitable in-700

Infant trustee: cestui's right to compel execution of trust.

Right to extraordinary dividends as between life tenant and remainderman. 703-704

Following trust property: Rights of several cestuis inter se in lowest intermediate balance of mingled funds deposited by trustee to own account. 699-700

Rule of Clayton's case applied as to rights of cestuis inter se in funds wrongfully used by trustee.

699-700 Power and obligations of trustee: Infant trustee compelled to perform trust.

Investments: exercise of discretion. Liability of trustees of business trust for tort. 704-705

Loan to self. Restraints on alienation of ces-

tui's interest: Cestui que trust as trustee of a spendthrift trust. 483 Postponement of enjoyment. Postponement of enjoyment of the

interest of a sole cestui que trust who is also trustee.

Restraint on alienation of equitable interest in fee simple held valid.

700-70I Spendthrift trusts. 700-70I

Resulting trust: Conveyance taken as security for money advanced on oral agreement to convey when paid. 698-69**9**

Conveyance to one person when part of consideration is paid by another. 697-698

Land conveyed to grantee or oral 696-697 Trust on face of will for unnamed

cestuis. 696-697

Rights and liabilities of third parties: Bank's liabilities for funds deposited or withdrawn in breach of trust. 701-702

Laches by substituted trustee held to bar infant cestui. 738 Right against trust estate for at-

torney fees. 702 Rights against trustees or beneficiaries of a business trust for tort

704-705 Extinguishment. See StatuteFrauds (Trusts).

IJ

UNFAIR COMPETITION.

Deceptive use of descriptive words associated with rival business. 617

UNINCORPORATED SOCIETIES.

See Voluntary Associations.

claim.

VENDOR AND PURCHASER.

Remedies of purchaser: Where land has been placed in the hands of a receiver. 68-73 Remedies of vendor: Effect of purchaser's property being placed in hands of a receiver. Equitable lien of unpaid vendor. 485

VESTED, CONTINGENT AND | FÚTURE INTERESTS.

See also Rule against Perpetuities. Three suggestions concerning future interests. 526–541 The transmission of remainders.

526-530 l

The separability of limitations.

531-535

The policy against remoteness. 535-541 **VOLUNTARY ASSOCIATIONS.**

Business trusts. 704-705 Legal status of unincorporated voluntary associations. **298**, 325

W

WAR. 631 British war administration. Claim for freight and demurrage by neutral shipowner against enemy 738 cargo seized as prize. Corporations: position of foreign shareholders in time of war. 370-375 Effect on partnership composed of enemies. 372 Espionage Act — the Abrams case a dissent. 747-774 Government organization in war time 631 and after. Nationality of prize owned by corporation. 370-371 Prize captured by mistake in neutral waters: costs and damages refused offended nation. 612 Problems of the war in international 629 Right of judiciary to determine existence of war emergency. 585, 608 Suits by alien enemies. 871 WARRANTY. On sales of personal property, see Sales.WASTE. Relief in equity against waste. 124 Tenant for life without impeachment for waste not entitled to proceeds from ornamental trees taken by government. Contracts and conveyances: French 165-167 Artificial watercourses and dams: French law. 159-161 Natural lakes and ponds: French law. 152-154 Natural watercourses: obstruction, pollution and diversion: French law. 159-160 Natural watercourses: ownership of bed and banks: French law. 159-161 Right of owner of both banks of non-navigable stream to maintain trover for fish taken from stream.

Natural watercourses: riparian rights: Early common law. 133–148 French law: Code Napoléon. 134

French law: navigable rivers. 151-152

French law: streams. 148-151 Influence of French law upon American law. 133-167 Origin of term "riparian." 136-148 Right of city as a riparian owner of stream flowing through. 157-158

Navigability: Necessity of actual user. 872

Public rights: Fishing: in non-navigable, non-tidal stream. French law: public lands and the waters thereon. 157-158 Is a city a riparian owner. 157-158 Public administration of waters under French law. 161-167

Subterranean and percolating waters: French law. 154-157

WILLS.

In general: Wills and administration: the progress of the law, 1918-1919 556-575

Contract to make will in consideration of personal services.

Construction: Absence of words of inheritance where no remainder-

After-acquired real estate under specific devise. 568-569 Conditional wills. 485, 565

Condition for forfeiture in case of contest by legatee. 560

Disinheritance by express clause in will without affirmative disposition to another.

Effect of statute abolishing necessity of words of limitation to pass a fee upon a gift for life, remainder to issue.

Erroneous description of land in a will. 467, 486

Gift to a class: devise of remainder to testator's living children. 739

Mistakes in will: how far may court remedy them. 560-565

Execution: Animus testandi: direction to solicitor as to preparing will. 556-557, 620

Attesting witness: signature in presence of blind testator. 566
Signature at end of will. 565-566
Signature at end: signature on unattached piece of paper. 989
Soldiers' wills. 556-557, 620
Unattached scraps of paper. 989

Fraud, undue influence and mistake: Burden of proof. 558-560

Holographic wills: Requisites: sufficiency of date. 619

In corporation by reference: Valid codicil referring to will procured by undue influence. 872

Joint wills: Effect of second marriage by survivor. 557-558 Specific performance of contract.

557-558
Probate: Collateral attack in equity on decree of probate court allowing will on ground of fraud denied.

Directions in letter to solicitor as to changes desired in will admitted to probate. 620, 556-557

Republication: Valid codicil referring to will invalid because procured by undue influence. 872

Revocation: Conditional revocation by act to the document. 338-341 Conditional revocation by subsequent instrument. 348, 567, 620 Dependent relative revocation.

337-357

Origin and scope of doctrine.
 337-338
 By written instrument. 620
 Direction to attorney to destroy will in letter attested as required.
 566-567

Partial revocation of will: by adoption of child. 724
—— Unattached scraps of paper cut from complete will

cut from complete will. 989
Revocation by act to the document

under a mistake. 342-348
Revocation by subsequent instrument under a mistake. 348-357

Revocation founded expressly on advice or belief. 351-353
Will not revoked by express clause

of revocation in later will. 567
Testamentary capacity: Burden of

proof. 558-560

WITNESSES.

Competency in general: Husband and wife: use of testimony obtained at prior proceeding in violation of privilege to impeach testimony in favor of spouse. 873

Privilege against self-incrimination: Duty of court to instruct witness concerning privilege. 119

Privileged communications: Attorney and client — where they are co-trustees. 120 Child delinquent and juvenile court judge. 88. 120

judge. 88, 120
Compelling testimony: Refusal of
witness to testify on ground that
a statute is unconstitutional. 110

WORKMEN'S COMPENSATION ACTS.

See under Master and Servant.

BOOK REVIEWS

	PAGE
ALLEN: The Law as a Vocation. (Charles M. Hough.)	739
Anson: Principles of the Law of Contracts. (John S. Ewart.)	626
BALDWIN: The Young Man and the Law. (A. W. S.)	995
BAYS: Business Law, an Elementary Treatise. (Nathan Isaacs.)	1081
Beveridge: The Life of John Marshall. (H. D. Hazeltine.)	990
BIGELOW: Introduction to the Law of Real Property — Rights in Land. (J. W.)	130
BLACK: Relation of the Executive Power to Legislation. (T. R. Powell.)	332
Brannan: Negotiable Instruments Law Annotated, The. Third Edition.	
(H. L. Smith.)	486
Carter: The Corporation as a Legal Entity. (Edward H. Warren.)	878
CLARK: Equity, an Analysis of Modern Equity Problems Designed Primarily for	
Students. (Z. C., Jr.)	122
CLARK: History of Roman Private Law: Part III, Regal Period. (C. H. Mc-	
Ilwain.)	992
CLARKE: Story of My Life, The	490
CONNOR: John Archibald Campbell, Associate Justice of the United States	
Supreme Court	1083
Conyngton and Bergh: Business Law, a Text-Book for Schools of Business	
Administration. (Nathan Isaacs.)	1081
Davies: The Baronical Opposition to Edward II. (C. H. McIlwain.)	120
DE BECKER: International Private Law of Japan. (E. G. Lorenzen.)	995
DICEY AND RAIT: Thoughts on the Union between England and Scotland.	
(Harold J. Laski.)	1082
DUGGAN: The League of Nations: The Principle and the Practice. (Edwin M.	
Borchard.)	125
FAIRLIE: British War Administration. (J. G. P.)	631
GLEASON AND OTIS: A Treatise on the Law of Inheritance Taxation. (J. W.).	996
Grant: Law and the Family. (Richard W. Hale.)	745
Grotius Society: Problems of the War. (E. W.)	629
HARRISON: On Jurisprudence and the Conflict of Laws. (J. H. Beale.)	333
HARRISON: Principes de Droit Public. (E. W.)	334
HILL: Present Problems in Foreign Policy. (E. W.)	130
HINTON: Cases on the Law of Evidence. (M. C. Campbell.)	745
JACOBY: The Unsound Mind and the Law. (H. S. G.)	881
LAUCHHEIMER: Labor Law of Maryland, The. (Dean G. Acheson.)	329
LEADAM AND BALDWIN: Select Cases before the King's Council, 1243-1482.	
(J. H. B.)	129
MARBURG: League of Nations: its Principles Examined. (Lindsay Rogers.)	487
MAXEY: County Administration. (W. B. Munro.)	334
MILLER: Reservations to Treaties: Their Effect, and the Procedure in Regard	_
Thereto. (Ernst Freund.)	874
Noel: A History of the Bankruptcy Law. (Samuel Williston.)	994
NORTHRUP: A Preliminary Treatise on the Law of Real Property. (E. H. W.).	880
PORTER: A History of Suffrage in the United States	630
1 ORIER. 11 Illistory of Sunrage in the Officed States	131

Vol. XXXIII]	TABLE OF	CONTENTS	X	xxvii
				PAGE
POUND: Outline of a C	ourse on the Histo	ory and System of	the Common Law.	•
Ralston: Judicial Con				
• •				
Scott: James Madison			· ·	
		•	(Henry W. Biklé.)	
Scott: Judicial Settler				
Sмітн: International L				
Sмітн: Justice and the				
STALLYBRASS: A Society				
Strahan: The Bench a	•	• •		-
THOMPSON: A Practical				
Tyau: China's New C			•	
5 • .			· · · · · · · · · · · · · · · · · · ·	-
Tyau: Legal Obligatio	•	•		
•	. .			-
WIDDIFIELD: Executors				
Wigmore Celebration I	• •	•		-
Willoughby: Governm				
WINTER: Marine Insur	•	•		
Works: Juridical Reform	rm. (Roscoe Poun	ıd.)		326